

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT J. MALLETT,

Plaintiff,

v.

7:07-CV-1159
(GLS/GHL)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

OFFICE OF CHRISTINE A. SCOFIELD
Counsel for Plaintiff
506 East Washington Street, Suite D
Syracuse, New York 13202

CHRISTINE A. SCOFIELD, ESQ.

GEORGE H. LOWE, United States Magistrate Judge

REPORT AND RECOMMENDATION

On November 1, 2007, Plaintiff, represented by counsel, filed this action for Social Security benefits. (Dkt. No. 1.) On November 5, 2007, Summonses were issued. (Dkt. Nos. 5.) Plaintiff did not file a certificate of service showing service on Defendant within the 60 days required by Local Rule 4.1(b) or the 120 days required by Federal Rule of Civil Procedure 4(m). On April 10, 2008, the undersigned issued an Order to Show Cause granting Plaintiff a 30-day extension to serve Defendant and directing Plaintiff to, within 30 days of the date of the Order, either (1) serve Defendant with the Summons and Complaint or (2) show cause why the undersigned should not recommend that the Complaint be dismissed. (Dkt. No. 6.) To date, Plaintiff has neither filed a certificate of service showing service on Defendant nor shown cause why this action should not be dismissed.


ACCORDINGLY, it is

RECOMMENDED, that this action be dismissed for failure to serve Defendant within the time limits imposed by Federal Rule of Civil Procedure 4(m) and Local Rule 4.1.(b).

Pursuant to 28 U.S.C. § 636(b)(1), the parties have ten days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court.

FAILURE TO OBJECT TO THIS REPORT WITHIN TEN DAYS WILL PRECLUDE APPELLATE REVIEW. *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993) (citing *Small v. Secretary of Health and Human Services*, 892 F.2d 15 (2d Cir. 1989)); 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72, 6(a), 6(e).

Dated: May 30, 2008
Syracuse, New York


George H. Lowe
United States Magistrate Judge